



**IAP13 Rec'd PCT/PTO 16 JAN 2007**

Practitioner's Docket No. U 016136-9

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Kenichi **HIWATASHI**

Application No.: 10/567,239

Group No.: 1745

Filed: October 4, 2006

Examiner: - -

For: **SOLID OXIDE FUEL CELL**

**Mail Stop Missing Part**

**Commissioner for Patents**

**P. O. Box 1450**

**Alexandria, VA 22313-1450**

**COMPLETION OF FILING REQUIREMENTS  
-- NONPROVISIONAL APPLICATION**

*(check and complete this item, if applicable)*

- I.** This replies to the Notice to File Missing Parts of Application (PTO-1533) or Notice of Informal Application or Notice to File Corrected Applications Papers mailed January 8, 2007. A copy of the Notice is attached.

*NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.*

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***

*(When using Express Mail, the Express Mail label number is **mandatory**;  
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- ☒ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents,  
P. O. Box 1450, Alexandria, VA 22313-1450.

**37 C.F.R. 1.8(a)**

**37 C.F.R. 1.10\***

- ☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Address"  
Mailing Label No. \_\_\_\_\_ (**mandatory**)

**TRANSMISSION**

- ☐ transmitted by facsimile to the Patent and Trademark Office. to **(571)-273-8300**

Date: January 12, 2007

Signature \_\_\_\_\_

**CLIFFORD J. MASS**

*(type or print name of person certifying)*

**\*WARNING:** Each paper or fee filed by "Express Mail" **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

*"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.*

**NOTE:** The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

## DECLARATION OR OATH

- II.** (a) ☐ No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

**NOTE:** If the correct inventor or inventors are not named on filing a nonprovisional application under Section 1.53(b) without an executed oath or declaration under Section 1.63, the later submission of an executed oath or declaration under Section 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. Section 1.48(f)(1).

## OR

- (b) ☐ The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

**NOTE:** For surcharge fee for filing declaration after filing date complete item VI(3) below.

**NOTE:** "The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:

- (A) application number (consisting of the series code and the serial number, e.g., 08/123,456);
  - (B) serial number and filing date;
  - (C) attorney docket number which was on the specification as filed;
  - (D) title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or
  - (E) title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.
- M.P.E.P. Section 601.01(a), 7th ed.

**NOTE:** Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. Section 1.10(c).

(complete as applicable)

Attached is a

- (c) ☐ Statement by practitioner that papers attached to declaration are a copy of those filed in PTO to get a filing date
- (d) ☐ Statement that substitute specification contains no new matter.
- (e) ☐ Preliminary Amendment
- (f) ☐ Submission of "Sequence Listing," computer readable copy, and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence
- (g) ☐ Supplemental Application Data Sheet

**TRANSMITTAL OF ENGLISH TRANSLATION  
OF NON-ENGLISH LANGUAGE PAPERS**

- III.**    ☐ Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

*NOTE: For fee processing a non-English application, complete item VI(5) below.*

*NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 C.F.R. Section 1.69(b).*

**SMALL ENTITY STATUS**

- IV.**    a.    ☐ An assertion that this filing is by a small entity

*(check and complete applicable items)*

- ☐ is attached.  
☐ was filed on \_\_\_\_\_ (original).  
☐ was made by paying the basic filing fee as a small entity.  
☐ is being made now by paying the basic filing fee as a small entity.

- b.    ☐ A separate refund request accompanies this paper.

**COMPLETION FEES**

**V.**

***WARNING:** Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. Section 1.53.*

***NOTE:** For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. Section 1.28(a).*

**1. Filing, search and exam fees**

- ☐ original patent application  
(37 C.F.R. Section 1.16--\$1,000.00; small entity--\$500.00)        \$ \_\_\_\_\_
- ☐ design application  
(37 C.F.R. Section 1.16--\$430.00; small entity--\$215.00)        \$ \_\_\_\_\_
- ☐ plant application  
(37 C.F.R. Section 1.16--\$660.00; small entity--\$330.00)        \$ \_\_\_\_\_
- ☐ Additional fee for specification and drawings filed in paper  
over 100 sheets (excluding sequence listing or computer  
program listing filed in electronic medium). The fee is  
\$250.00; small entity--\$125.00 for each additional 50  
sheets paper or fraction thereof        \$ \_\_\_\_\_

2. Fees for claims

- ☐ each independent claim in excess of 3  
(37 C.F.R. Section 1.16(b)--\$200.00; small entity--\$100.00) \$ \_\_\_\_\_
- ☒ each claim in excess of 20  
(37 C.F.R. Section 1.16(c)--\$50.00; small entity--\$25.00) \$ 1,350.00
- ☐ multiple dependent claim(s)  
(37 C.F.R. Section 1.16(d)--\$360.00; small entity--\$180.00) \$ \_\_\_\_\_

3. Surcharge fees

- ☐ late payment of filing fee and/or late filing of original declaration or oath  
(37 C.F.R. Section 1.16(e)--\$130; small entity--\$65) \$ already paid

*NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.*

*NOTE: If both the filing fee and declaration or oath were missing from the original papers, the Office practice under 37 C.F.R. Section 1.16(e) is that only one surcharge fee need be paid whether the later filed oath or declaration and/or the filing fee are submitted afterwards at the same time or at different times.*

4. ☐ Petition and fee for filing by other than  
all the inventors or a person not the inventor  
(37 C.F.R. Sections 1.17(g) and 1.47--\$200) \$ \_\_\_\_\_
5. ☐ Fee for processing an application filed with  
a specification in a non-English language  
(37 C.F.R. Sections 1.17(k) and 1.52(d)--\$130) \$ \_\_\_\_\_

01/17/2007 LLANDGRA 00000057 10567239

01 FC:1615 1350.00 0P

Total completion fees \$ 1,350.00

## EXTENSION OF TIME

### VI.

*(complete (a) or (b), as applicable)*

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(4), for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00

**NOTE:** *The 2-month time period for reply to A Notice to File Missing Parts of an Application is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions of time of up to 5 months under 37 CFR 1.136(a), followed by additional time under 37 CFR 1.136(b), when appropriate, are permitted. MPEP 710.02(d)(c), 8<sup>th</sup> ed.*

<input type="checkbox"/> five months	\$ 2,160.00	\$ 1,080.00
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Fee \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

### OR

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

## TOTAL FEE DUE

### VII.

The total fee due is

Completion fee(s)      \$ 1,350.00  
Extension fee (if any)    \$ \_\_\_\_\_

Total Fee Due    \$ 1,350.00

## PAYMENT OF FEES

### VII.

☒ Enclosed is a check in the amount of \$ 1,350.00.

☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_.  
A duplicate of this request is attached.

*NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. Section 1.22(b).*

Please charge Account No. 12-0425 for any fees which may be due by this paper.

## AUTHORIZATION TO CHARGE ADDITIONAL FEES

### IX.

**WARNING:** *Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.*

*NOTE: "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. Section 1.26(a).*

☒ The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 12-0425

☒ 37 C.F.R. 1.492(a)(1) (basic filing fee)

**WARNING:** *Because failure to pay the national fee within 30 months without extension (37 C.F.R. § 1.495(b)(2)) results in abandonment of the application, it would be best to always check the above box.*

☒ 37 C.F.R. 1.492(b) (search fee)

☒ 37 C.F.R. 1.492(b) (exam fee)

☐ 37 C.F.R. 1.492(b) (claim fees)

*NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.492(d)), it might be best not to authorize the PTO to charge additional claim fees, except possible when dealing with amendments after final action.*

☒ Spec and drawing, each 50 pages over 100 37 C.F.R. 1.16(s)

☒ 37 C.F.R. 1.17 (application processing fees)

☒ 37 C.F.R. 1.17(a)(1)-(5)(extension fees pursuant to § 1.136(a).

NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under Section 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in Section 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. Section 1.136(a)(3).

NOTE: Section 1.311(b) provides that an authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application **only after the mailing of the notice of allowance**. Accordingly, general authorizations to any fees and specific authorizations to pay the issue fee that are filed prior to the mailing of a notice of allowance will generally not be treated as requesting payment of the issue fee and will not be given effect to act as a reply to the notice of allowance. Applicant, when paying the issue fee, should submit a new authorization to charge fees, such as by completing box 6b on the current PTOL 85-B form. Where no reply to the notice of allowance is received, the application will stand abandoned notwithstanding the presence of general authorizations to pay fees or a specific authorization to pay the issue fee that were submitted prior to mailing of the notice of allowance. Where an attempt is made to pay the issue fee but an incorrect amount is submitted, § 1.311(b)(1), or where the Office's issue fee transmittal form (currently PTOL-85(B)) is completed by applicant and submitted, § 1.311(b)(2), in reply to a notice of allowance, an exception will be made. Such submissions will operate as a request to charge the issue fee to any deposit account identified in a previously filed (i.e., submitted prior to the mailing of the notice of allowance) authorization to charge fees, and will be allowed to act as payment of the correct issue fee, § 1.311(b). See also the change to § 1.26(b), Notice of September 8, 2000, Fed. Reg. 54603-54683, at 54646 and 54647.

Reg. No.: 30,086

Tel. No.: ( 212 ) 708-1890

SIGNATURE OF PRACTITIONER

CLIFFORD J. MASS

(type or print name of practitioner)

P.O. Address

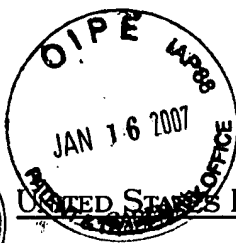
c/o Ladas & Parry LLP  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023

Customer No.:



00140

PATENT TRADEMARK OFFICE



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/567,239	Kenichi Hiwatashi	U 016136-9

INTERNATIONAL APPLICATION NO.
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PCT/JP04/11368

I.A. FILING DATE	PRIORITY DATE
08/06/2004	08/06/2003

140  
 LADAS & PARRY  
 26 WEST 61ST STREET  
 NEW YORK, NY 10023

CONFIRMATION NO. 2553

371 FORMALITIES LETTER



\*OC000000021864979\*

Date Mailed: 01/08/2007

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- Priority Document
- Copy of the International Application filed on 02/03/2006
- English Translation of the IA filed on 10/04/2006
- Copy of the International Search Report filed on 02/03/2006
- Copy of IPE Report filed on 10/04/2006
- Preliminary Amendments filed on 10/04/2006
- Information Disclosure Statements filed on 02/03/2006
- Oath or Declaration filed on 02/03/2006
- Request for Immediate Examination filed on 02/03/2006
- U.S. Basic National Fees filed on 02/03/2006
- Assignment filed on 02/03/2006
- Priority Documents filed on 02/03/2006
- Specification filed on 10/04/2006
- Claims filed on 10/04/2006
- Abstracts filed on 10/04/2006
- Drawings filed on 10/04/2006

Applicant's response filed 10/04/2006 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 08/04/2006 have not been completed.

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **\$1350** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.



## SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$1350** for a Large Entity:

**Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).**

- Total additional claim fee(s) for this application is \$ **1350**

- **\$1350** for **27** total claims over 20.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

CHARITTA A BURT

Telephone: (703) 308-9140 EXT 207

## PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/567,239	PCT/JP04/11368	U 016136-9